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8
9 **BEFORE THE**
CALIFORNIA STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 420 2018 000298

12 **RAMSEY KATAN, O.D.**
13 **28401 Date Palm Drive, Suite B**
14 **Cathedral City, CA 92234**

A C C U S A T I O N

15 **Optometrist License No. OPT 11899 TLG**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Joanne Wenzel (Complainant) brings this Accusation solely in her official capacity as
21 the Interim Executive Officer of the California State Board of Optometry (Board), Department of
22 Consumer Affairs.

23 2. On or about July 5, 2002, the Board issued Optometrist License Number OPT 11899
24 to Ramsey Katan (Respondent). A TLG¹ certification was added to Respondent's Optometrist
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26 ¹ A TLG designation indicates that Respondent is certified to use therapeutic
27 pharmaceutical agents and perform the procedures listed in Business and Professions Code section
28 3041, and to perform lacrimal irrigation and dilation procedures for patients over the age of 12
years and diagnose and treat primary open angle glaucoma in patients over the age of 18 years.

1 License on December 27, 2011. The Optometrist License was in full force and effect at all times
2 relevant to the charges brought herein and will expire on October 31, 2018, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board under the authority of the following laws.
5 All section references are to the Business and Professions Code (Code) unless otherwise
6 indicated.

7 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
9 disciplinary action during the period within which the license may be renewed, restored, reissued
10 or reinstated.

11 5. Section 3090 states:

12 Except as otherwise provided by law, the board may take action against all
13 persons guilty of violating this chapter or any of the regulations adopted by the board.
14 The board shall enforce and administer this article as to licenseholders, including those
15 who hold a retired license, a license with a retired volunteer designation, or an inactive
16 license issued pursuant to Article 9 (commencing with Section 700) of Chapter 1, and
17 the board shall have all the powers granted in this chapter for these purposes,
including, but not limited to, investigating complaints from the public, other licensees,
health care facilities, other licensing agencies, or any other source suggesting that an
optometrist may be guilty of violating this chapter or any of the regulations adopted by
the board.

18 6. Section 3092 states:

19 All proceedings against a licensee for any violation of this chapter or any of the
20 regulations adopted by the board, or against an applicant for licensure for
unprofessional conduct or cause, shall be conducted in accordance with the
21 Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1
of Division 3 of Title 2 of the Government Code) except as provided in this chapter,
22 and shall be prosecuted by the Attorney General's office.

23 STATUTORY REFERENCES

24 7. Section 3041 of the Code states:

25 (a) The practice of optometry includes the prevention and diagnosis of disorders
26 and dysfunctions of the visual system, and the treatment and management of certain
disorders and dysfunctions of the visual system, as well as the provision of habilitative
27 or rehabilitative optometric services, and is the doing of any or all of the following:

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1 (1) The examination of the human eye or eyes, or its or their appendages, and
the analysis of the human vision system, either subjectively or objectively.

2 (2) The determination of the powers or range of human vision and the
3 accommodative and refractive states of the human eye or eyes, including the scope of
its or their functions and general condition.

4 (3) The prescribing or directing the use of, or using, any optical device in
5 connection with ocular exercises, visual training, vision training, or orthoptics.

6 (4) The prescribing of contact and spectacle lenses for, or the fitting or
adaptation of contact and spectacle lenses to, the human eye, including lenses that may
7 be classified as drugs or devices by any law of the United States or of this state.

8 (5) The use of topical pharmaceutical agents for the purpose of the examination
of the human eye or eyes for any disease or pathological condition.

9 ...

10 8. Section 3090.5, subdivision (a), of the Code provides in pertinent part that:

11 The board may revoke a license issued to a licensee upon a decision, made in a
12 proceeding as provided in Section 3092, that contains a finding of fact of either of the
13 following:

14 (a) The licensee has engaged in an act of sexual abuse, misconduct, or relations
with a patient, as described in paragraph (2) of subdivision (m) of Section 3110.

15 ...

16 9. Section 3110 of the Code provides, in pertinent part:

17 The board may take action against any licensee who is charged with
18 unprofessional conduct, and may deny an application for a license if the applicant has
committed unprofessional conduct. In addition to other provisions of this article,
19 unprofessional conduct includes, but is not limited to, the following:

20 ...

21 (m)(1) Committing or soliciting an act punishable as a sexually related crime, if
22 that act or solicitation is substantially related to the qualifications, functions, or duties
of an optometrist.

23 (2) Committing any act of sexual abuse, misconduct, or relations with a patient.
The commission of and conviction for any act of sexual abuse, sexual misconduct, or
24 attempted sexual misconduct, whether or not with a patient, shall be considered a
crime substantially related to the qualifications, functions, or duties of a licensee. This
25 paragraph shall not apply to sexual contact between any person licensed under this
chapter and his or her spouse or person in an equivalent domestic relationship when
26 that licensee provides optometry treatment to his or her spouse or person in an
equivalent domestic relationship.

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1 (r) Performing, or holding oneself out as being able to perform, or offering to
2 perform, any professional services beyond the scope of the license authorized by this
3 chapter.

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8 10. Penal Code section 243.4 defines a sexual battery as the following:

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10 (a) Any person who touches an intimate part of another person while that person
11 is unlawfully restrained by the accused or an accomplice, and if the touching is against
12 the will of the person touched and is for the purpose of sexual arousal, sexual
13 gratification, or sexual abuse, is guilty of sexual battery. A violation of this
14 subdivision is punishable by imprisonment in a county jail for not more than one year,
15 and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the
16 state prison for two, three, or four years, and by a fine not exceeding ten thousand
17 dollars (\$10,000).

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21 (e)(1) Any person who touches an intimate part of another person, if the
22 touching is against the will of the person touched, and is for the specific purpose of
23 sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual
24 battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by
25 imprisonment in a county jail not exceeding six months, or by both that fine and
26 imprisonment. . . .

27
28 (2) As used in this subdivision, "touches" means physical contact with another
person, whether accomplished directly, through the clothing of the person committing
the offense, or through the clothing of the victim.

(f) As used in subdivisions (a), (b), (c), and (d), "touches" means physical
contact with the skin of another person whether accomplished directly or through the
clothing of the person committing the offense.

(g) As used in this section, the following terms have the following meanings:

(1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any
person, and the breast of a female.

...

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1517 states:

For the purpose of denial, suspension, or revocation of the certificate of
registration of an optometrist pursuant to Division 1.5 (commencing with Section 475)
of the Code, a crime or act shall be considered to be substantially related to the
qualifications, functions, and duties of an optometrist if to a substantial degree it
evidences present or potential unfitness of an optometrist to perform the functions
authorized by his/her certificate of registration in a manner consistent with the public
health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those
involving the following:

...

1 (d) Any violation of the provisions of Chapter 7, Division 2 of the Code
2 (Sections 3000 et seq. of the Code).

3 **COST RECOVERY**

4 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
9 included in a stipulated settlement.

10 **FACTUAL ALLEGATIONS**

11 13. On Wednesday, March 21, 2018, S.O. visited Respondent's office for a follow-up eye
12 exam to determine whether eye drops previously prescribed by Respondent were reducing the
13 pressure in S.O.'s eyes. S.O. is a nineteen-year-old female and had been a patient of Respondent
14 for four (4) years prior to the exam.

15 14. S.O. was alone in the exam room when Respondent entered the room and closed the
16 door. Respondent examined each of S.O.'s eyes by holding a lighted instrument in one of his
17 hands and placing his other hand on S.O.'s shoulder. Respondent then he slid his hand from S.O.'s
18 shoulder down to her waist, which felt weird to S.O. She stepped back from Respondent, and he
19 returned his hand to her shoulder.

20 15. Respondent told S.O. that the eye drops were not working in reducing the pressure in
21 her eyes. Respondent went to the computer that was to S.O.'s side and started typing. He turned
22 around while sitting on the stool and asked S.O. to remove her shirt to check her breasts for
23 lumps. As he said this, Respondent rolled his stool over to the examination room door, while still
24 sitting on it, and locked the door to the examination room. S.O. said "No." Respondent asked
25 S.O. if she was taking steroids, and she said "No." Respondent told S.O. that steroids affected the
26 eyes and changed a person's body by causing bumps and lumps on the breasts.

27 16. Respondent came close to S.O. and lifted her shirt up exposing her bra. He used his
28 hands to pull down each of her bra cups exposing each breast for about five seconds. Respondent
then placed both of his hands on the top of S.O.'s shoulders and guided her backwards towards

1 the exam chair that was behind her. With his hands still on her shoulders, he applied hard
2 downward pressure, forcing her to sit down in the exam chair. S.O.'s shirt was still up, and
3 Respondent reached around her and unfastened her bra. Respondent lifted S.O.'s bra above her
4 shirt, exposing both of her breasts, and started feeling both of her breasts with his bare hands.
5 Respondent squeezed S.O.'s breasts until she felt pain. Respondent then pulled down S.O.'s bra
6 and shirt, sat back down on his stool, and rolled over to his computer. He started typing and told
7 S.O. that he was going to prescribe different drops for her. He then got up from the stool and
8 walked over and unlocked the door.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct – Act Punishable as Sexually Related Crime)**

11 17. Respondent is subject to disciplinary action under Section 3110, subdivision (m)(1), of
12 the Code in that Respondent committed an act punishable as a sexually related crime under Penal
13 Code section 243.4, that was substantially related to the qualifications, functions, or duties of an
14 optometrist. The circumstances are set forth in paragraphs 13 through 16 above, which are
15 incorporated herein by reference.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Act of Sexual Abuse with a Patient)**

18 18. Respondent is subject to disciplinary action under Sections 3090.5 and 3110,
19 subdivision (m)(2), of the Code in that Respondent committed an act of sexual abuse and/or
20 misconduct with his patient S.O. The circumstances are set forth in paragraphs 13 through 16
21 above, which are incorporated herein by reference.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct – Offering to Perform Professional Services**

24 **Beyond the Scope of an Optometrist License)**

25 19. Respondent is subject to disciplinary action under Section 3110, subdivision (r), of the
26 Code in that Respondent offered to perform and/or held himself out as being able to perform

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1 professional services beyond the scope of the Optometry Practice Act. The circumstances are set
2 forth in paragraphs 13 through 16 above, which are incorporated herein by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct)**

5 20. Respondent is subject to disciplinary action under Section 3110 of the Code for
6 engaging in unprofessional conduct. The circumstances are set forth in paragraphs 13 through 16
7 above, which are incorporated herein by reference.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the California State Board of Optometry issue a decision:

11 1. Revoking or suspending Optometrist License Number OPT 11899 TLG, issued to
12 Ramsey Katan, O.D.;

13 2. Ordering Ramsey Katan, O.D. to pay the California State Board of Optometry the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3; and,

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 8-15-18


18 JOANNE WENZEL
19 Interim Executive Officer
20 California State Board of Optometry
21 Department of Consumer Affairs
22 State of California
23 Complainant

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